

REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 1-21 were pending in this application. By this Amendment, claims 4, 8, 14, 15, and 20 have been amended and no claims have been canceled or added. Accordingly, claims 1-21 will remain pending herein upon entry of this Amendment. Support for the amendment to claim 8 can be found throughout the specification including, for example, at paragraph [0030] and in Figures 5-9 of the present application. The amendments to claims 4, 14, 15, and 20 were made to address formalities and are not intended to narrow or otherwise affect the scope of the claims. For the reasons stated below, Applicant respectfully submits that all claims pending in this application are in condition for allowance.

In the Office Action mailed July 12, 2007, claims 14 and 15 were objected to because of informalities. Claims 4 and 8-18 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 3, 4, and 5 were rejected under 35 U.S.C. § 102(b) based upon U.S. Patent No. 6,370,390 to Salin et al. ("Salin"). Claims 2, 6-10, 16, and 18-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Salin in view of U.S. Patent Application Publication No. US 2002/0006125 to Josse et al. ("Josse"). Claims 11-15, 17, and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Salin and Josse as applied to claims 8 and 19 and further in view of U.S. Patent No. 7,006,478 to Mizell et al. ("Mizell").

To the extent these rejections might still be applied to claims presently pending in this application, Applicant respectfully traverses the rejections.

Claim Objections

Claims 14 and 15 have been amended in accordance with the Examiner's suggestions for grammatical reasons.

Claim Rejections Under 35 U.S.C. § 112

Claims 4 and 8 have been amended to provide proper antecedent basis.

Claims 1, 3, 4, And 5 Under 35 U.S.C. § 102(b)

Claim 1 is patentable over Salin because the cited portions of Salin do not disclose, teach, or suggest a method for coordinating operation modes of a GPRS network comprising, *inter alia*, automatically switching the operation mode of the GPRS network to a secondary network operation mode if a failure condition occurs in the primary network operation mode. Salin further does not disclose, teach, or suggest switching the operation mode back to the primary network operation mode if the primary network operation mode is recovered. As a result, claim 1 is patentable over Salin.

Salin discloses a system for the delivery of short messages to mobile stations in situations *where the mobile station is not reachable in the packet radio network*. (See, e.g., Abstract of Salin, lines 1-6.) Salin describes situations where the network attempts to deliver short messages to the mobile station via the serving support node (SGSN) but cannot do so due to poor radio channel conditions or the mobile station being detached from the GPRS network. (Col. 3, lines 6-10.) To remedy the problem of loss of connectivity or reachability with the mobile station,

Salin discloses attempting to deliver the message to the mobile station through an alternate network path, such as through the GSM network. Thus, Salin distinguishes between a primary network and a secondary network as being different routes of the same network that are used to attempt communication with the mobile station. (Col. 5, lines 14-32.)

The “primary network” and “secondary network” described in Salin are not “network operation modes” as claimed in claim 1. Network operation modes in accordance with the present invention have known meanings in the telecommunications industry and are defined in the present specification generally at paragraphs [0007] and [0010]-[0013]. As described therein, the network operation mode represents the capabilities of the GPRS network and refers to the proper channels for the mobile station to listen for paging messages and how to signal towards the core network. The modes define when and how each of the GSM and GPRS routes are used to communicate with the mobile device. Three network operation modes are described and used in GPRS networks as is known in the art, NOM1, NOM2, and NOM3. The processes disclosed by Salin are not in conformance with switching from one network operation mode to another.

The cited portions of Salin do not disclose switching network operation modes as they are known in the art. Salin simply provides procedures for alerting the network and altering the delivery of messages to an unreachable mobile station operating in a single network mode. Even though some embodiments disclose the attempted delivery of a message through the GSM network after attempts through the GPRS network have failed (*e.g.*, Figure 6 of Salin, col. 17, line 18, through col. 18, line 55), this operation is not the same as switching network operation

modes as claimed. All GPRS network operation modes (NOM1, NOM2, and NOM3) provide varying means to communicate with mobile stations through both circuit-switching and packet-switching services. The process described in Figure 6 of Salin does not switch network operation modes.

Further, the system of Salin is not responsive to a failure condition that occurs in the primary network operation mode, as is claimed. Salin is only responsive to a failure to communicate with a mobile station over the radio interface (14, in Figure 1 of Salin). Since a radio interface failure is not pertinent to whether a network operation mode should be switched due to a failure condition therein (since it would cause a similar problem in any network operation mode), Salin is not responsive to a failure condition in a primary network operation mode, as claimed. The present invention describes various failure conditions of a network operation mode including, for example, a failure in the interface between the SGSN and the MSC or a failure in the interface between the SGSN and the BSS.

For at least these reasons, claim 1 is patentable over Salin. Claims 2-7 are patentable over Salin at least by virtue of their dependency from claim 1 and for the additional features recited therein.

Applicant further notes that the Examiner makes reference to various parts of Salin by only citing certain passages without explanation of the substance of Salin. There is no discussion as to what specific disclosure of Salin is considered by the Examiner to anticipate the claims. In other words, Salin discloses at least five different embodiments and it is unclear as to how any one or several embodiments are construed by the Examiner such that the claimed features are

disclosed. Therefore, should the Examiner maintain a rejection based on Salin, Applicant respectfully requests further explanations as to how Salin and any other cited references are considered to teach the claimed invention.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections of claims 1, 3, 4, and 5 under 35 U.S.C. § 102(b) based on Salin.

Claims 2 And 6-21 Under 35 U.S.C. § 103(a)

Amended claim 8 is patentable over Salin because the cited portions of Salin do not disclose, teach, or suggest a method for coordinating operation modes of a GPRS network comprising, *inter alia*, transmitting a network message to a mobile subscriber via a second routing if a first routing is unavailable for transmitting the network message due to a failure in one or both of a first interface and a second interface in the first routing. As discussed above with respect to claim 1, Salin discloses alternate messaging procedures in situations where the mobile station is not reachable in the packet radio network. (*See, e.g.*, Abstract of Salin, lines 1-6.) Accordingly, the system of Salin is responsive only to failures of the radio interface (14) between a BSS and a mobile station. The radio interface (14) of Salin cannot be considered to be either the first interface or the second interface as claimed because it is the only means to communicate with the mobile station. That is, there is no second routing having a further interface by which to transmit to a mobile station if a first routing including the radio interface fails. Accordingly, amended claim 8 is patentable over Salin.

With respect to claims 2, 6-8, and 20, the Examiner cited Josse for the teaching of storing a registered preferred list of network operation modes selected by the mobile subscriber.

Applicant respectfully disagrees. Similarly to Salin as discussed above, Josse does not discuss the various GPRS network operation modes (NOM1, NOM2, and NOM3) as they are known in the art and described in the present application. Accordingly, the cited portions of Josse do not disclose storing a registered preferred list of network operation modes selected by the mobile subscriber as claimed. The cited portions of Josse further do not disclose, teach, or suggest the above-mentioned deficiencies of Salin with respect to amended claim 8. As a result, amended claim 8 is patentable over Salin and Josse, alone or in combination.

Claims 9-18 are patentable over Salin and Josse at least by virtue of their dependency from claim 8 and for the additional features recited therein.

With respect to claims 11-15, 17, and 21, the Examiner cited Mizell for the teachings of transmitting a failure indication message from the SGSN to the BSC for indicating that a first interface is unavailable, receiving a failure acknowledge message from the BSC, and switching the operation mode of the network to the second routing. Applicant disagrees with the Examiner's statement that Mizell discloses these features. There is no mention of switching GPRS network operation modes in the cited portions of Mizell and, accordingly, the Examiner has failed to present a *prima facie* showing of obviousness. The cited portions of Mizell further do not disclose, teach, or suggest the above-mentioned deficiencies of Salin and Josse with respect to claim 8 and, as a result, claims 8, 11-15, 17, and 21 are patentable over Salin, Josse, and Mizell, alone or in combination.

With respect to claims 11, 12, 15, and 17, which are allowable at least by virtue of their dependency from 8 as discussed above, the Examiner appeared to have taken official notice that

BVCI signals are well known in the art and that it would have been obvious to incorporate them into the system of Salin modified by Josse and Mizell. Applicant respectfully traverses the Examiner's official notice and request that documentary support be provided pursuant to MPEP § 2144.03.C. Notwithstanding the deficiencies in the "modified BSS of Salin," there is nothing in the record to suggest that BVCI signals would be obvious in the context of the claimed invention. The cited references do not disclose switching GPRS network operation modes as they are known in the art and therefore there would be no reason to use BVCI signals as they are claimed.

With respect to claim 19, Applicant respectfully submits that the Examiner has wholly failed to present any explanation of the rejection thereof. The only reference to claim 19 is on page 5 of the Office Action, in which the Examiner seems to broadly apply the rationale applied to claim 8 to claim 19. Claim 19, however, includes various features that are not included in claim 8 such that further treatment by the Examiner is necessary to establish a *prima facie* showing of obviousness. Notably, claim 19 recites a system for coordinating operation modes of a GPRS network that includes, *inter alia*, an MSC, a BSC, a SGSN, a database for storing a preferred list of network operation modes of the GPRS network that the mobile subscriber registers for, and wherein the operation modes of the GPRS network are automatically switched according to the registered preferred list of operation modes based on an interface status between the MSC and the SGSN. As discussed above, Salin discloses attempting GSM communication when GPRS is unavailable and does not switch GPRS network operation modes as they are known in the art. Further, any change in transmission made by Salin, if at all, is not based on the

status of an interface between the MSC and the SGSN and is not a switching of a network operation mode. Procedures in Salin are based on the radio interface (14 in Figure 1 of Salin) between the mobile station and the BSS.

It is further noted that the Examiner did not apply any references aside from Salin to cure the deficiencies thereof with respect to claim 19 and, as such, a proper showing of obviousness under § 103 has not been made.

Since the Examiner has not particularly pointed out how the references were to be applied to any of the distinct elements recited in claim 19, Applicant respectfully submits that claim 19 (which has not been amended) has not been properly rejected and that any further action in this application, if such action is necessary, may not be made final since Applicant has not been given the opportunity to properly address the rejection of the claim.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections of claims 2 and 6-21 under 35 U.S.C. § 103(a) based on Salin, Josse, and Mizell.

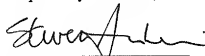
In view of the foregoing, all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone Applicant's undersigned representative at the number listed below.

PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 - 15th Street, N.W.
Washington, D.C. 20005
Tel: 202-551-1700

Date: August 15, 2007

Respectfully submitted,

By:



Steven P. Arnheim
Registration No. 43,475

SPA/GSS/dkp
Customer No. 64952